

VIA FACSIMILE AUGUST 10, 2004

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: Hastings, et al.

Attorney Docket No.: PF185D1C2

Application Serial No.: 10/627,604

Filed: July 28, 2003

Publication No.: 2004-0111667-A1

Published: June 10, 2004

Examiner: Not Yet Assigned

Art Unit: 2176

**RECEIVED
USPTO-PG PUBS****AUG 10 2004**

Title: Human CCN-Like Growth Factor

**REQUEST FOR CORRECTED PUBLICATION UNDER 37 C.F.R. § 1.221(b)
DUE TO MATERIAL OFFICE MISTAKE****Box PGPUB
P.O. Box 1450
Alexandria, VA 22313-1450**

Sir:

Applicants respectfully request a corrected publication of the above-listed application pursuant to 37 C.F.R. § 1.221(b) due to a material mistake made by the Office. In particular, the published application is not the application as filed or as represented in the Image File Wrapper from PAIR. The Published Document contains the correct inventors, correspondence name and address, assignee name and address, application number, priority, and filing date. However, the abstract, claims and specification of the published application do not match the application as filed.

The above mistake is material, as the abstract, specification, and claims are not identical to the application as filed. Whereas the application as filed discloses newly identified polynucleotides and polypeptides of Human CCN-Like Growth Factors, the published application is directed towards a form processing method for overlaying field data. Thus, the error affects the scope of provisional rights accorded Applicants under 35 U.S.C. § 154(d) based on the instant publication. Additionally, this mistake undermines the strength of the publication as a prior art reference, since a U.S. Patent Application

Publication must claim the same invention in order to prevent others from submitting an Affidavit or Declaration of Prior Invention under 37 C.F.R. § 1.131.

The error in the published application may be related to problems applicants experienced in obtaining a filing receipt in this application. By way of background, on or about December 12, 2003, a representative (Brenda Allen) from Human Genome Sciences, Inc. (HGS) called OIPE because HGS had not yet received a filing receipt for the above-captioned application. Furthermore, according to PAIR, the application had not yet been given a filing date, although an "unofficial" serial number was assigned by virtue of a bar-code sticker placed on applicants return postcard. (Serial No. 10/627,604). Moreover, PAIR did reflect the "unofficial" serial number.

Consequently, Ms. Allen was directed to Marsha Robinson who indicated that the PTO records showed that a Notice to Comply had been issued. The Address to which the Notice to Comply had been mailed was not HGS's. Due to the confusion, Ms. Robinson indicated that she would look into this matter and get back to Ms. Allen.

On or about Jan. 9, 2004, Ms. Robinson contacted HGS and indicated that OIPE had mistakenly assigned a serial number (10/627,604) to two separate patent applications. Ms. Robinson indicated that this error would be corrected.

After multiple follow-up phone calls, on or about March 4, 2004, Ms. Robinson called to indicate that the error had been corrected and that a filing receipt would be issued. Serial No. 10/627,604 was now assigned only to HGS's application.

As of May 25, 2004, HGS had still not received a filing receipt. Ms. Allen contacted OIPE to figure out what was the problem.

On May 25, 2004 OIPE mailed a "replacement" filing receipt. HGS never did receive the original filing receipt.

On June 30, 2004 the PTO issued a Notice of Publication for the above-captioned patent application indicating that it published on June 10, 2004 with publication No. US-2004-0111667-A1.

On August 10, 2004, another representative of HGS (Patrick Fogle) printed a copy of publication No. US-2004-0111667-A1 from NERAC.com. Upon reviewing US-2004-01116667, Mr. Fogle noted that the Published Document contained the correct inventors, correspondence name and address, assignee name and address, application number, priority, and filing date. However, the abstract, disclosure, and claims were incorrect.

To investigate further, Mr. Fogle logged on to PAIR and accessed the electronic file wrapper for this application. The scanned application in the Image File Wrapper contains the correct specification/disclosure.¹ However, the published application in PAIR does not match the application as filed or as shown in the PAIR Image File Wrapper.

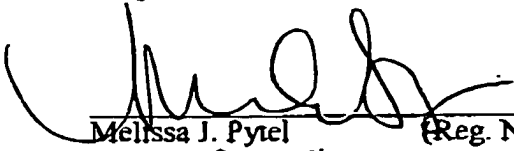
Accordingly, Applicants respectfully request that a corrected publication of the above-listed application be made pursuant to 37 C.F.R. § 1.221(b).

¹ Applicants note that the text "Copied from 10627614 on 25-11-2003" is found at the bottom of each page of the scanned application.

No fee is believed due for this submission. In the event that a fee is required in connection with this submission, please charge the required fee to Deposit Account No. 08-3425.

Respectfully submitted,

Dated: August 10, 2004


Melissa J. Pytel (Reg. No. 41,512)
Attorney for Applicants

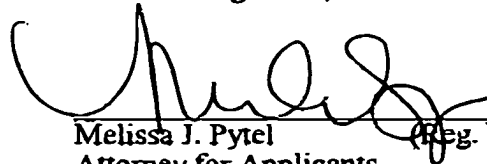
Human Genome Sciences, Inc.
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MJP/PF/ba

CERTIFICATE OF TRANSMISSION UNDER 37 C.F.R. § 1.8

1. Fax Cover Sheet
2. Request for Corrected Publication Under 37 C.F.R. § 1.221(b) due to Material Office Mistake
3. Associate Power of Attorney

I hereby certify that the above-listed correspondence is being facsimile transmitted to the United States Patent and Trademark Office on August 10, 2004.



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FAX COVER SHEET

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**TO: Office of Pre-Grant Publications
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FROM: Melissa J. Pytel (Reg. No. 41,512)

**RE: Application of: Hastings et al.
Application No. 10/627,604
Publication No.: 2004-0111667-A1
Title: Human CCN-Like Growth Factor**

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COMMENTS:

**Please see the attached Request for Corrected Publication Under 37 C.F.R.
§ 1.221(b) due to Material Office Mistake.**

**If you experience any difficulty receiving this transmission,
please contact Melissa J. Pytel at (301) 610-5764.**